

83

RCE/1700

FISH &amp; RICHARDSON P.C.

Substitute Form PTO/SB/30 (5-03)

<b>Request For Continued Examination (RCE) Transmittal</b>  Address to: Mail Stop RCE Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	<b>Application Number</b>	09/680,007
	<b>Filing Date</b>	October 5, 2000
	<b>First Named Inventor</b>	Phillip M. Braun et al.
	<b>Group Art Unit</b>	1744
	<b>Examiner Name</b>	Mark Spisic
	<b>Attorney Docket Number</b>	00216-447001



**RECEIVED**  
**DEC 18 2003**  
**TC 1700**

**This is a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 of the above-identified application.**

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

- Submission required under 37 C.F.R. §1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s)

  - ☐ Previously submitted. If a final Office action is outstanding, any amendment filed after the final Office action may be considered as a submission even if this box is not checked.
    - ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
    - ☐ Other \_\_\_\_\_
  - ☒ Enclosed
    - ☒ Amendment/Reply
    - ☐ Affidavit(s)/Declaration(s)
    - ☐ Information Disclosure Statement (IDS)
    - ☒ Other copy of Amendment in Reply to Action of July 10, 2003
- Miscellaneous**

  - ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. §1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. §1.17(i) required)
  - ☐ Other \_\_\_\_\_
- Fee** The RCE fee under 37 C.F.R. §1.17(e) is required by 37 C.F.R. §1.114 when the RCE is filed.

  - ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 06-1050
    - ☐ RCE fee required under 37 CFR 1.17(e)
    - ☐ Extension of time fee (37 CFR 1.136 and 1.17)
    - ☒ Other Any deficiencies
  - ☒ Check in the amount of \$ 770.00 enclosed
  - ☐ Payment by credit card (Form PTO-2038 enclosed)

**SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED**

<b>Name (Print/Type)</b>	Catherine M. McCarty	<b>Registration No. (Attorney/Agent)</b>	54,301
<b>Signature</b>	<i>Catherine M. McCarty</i>	<b>Date</b>	<i>December 10, 2003</i>

**CERTIFICATE OF MAILING OR TRANSMISSION**

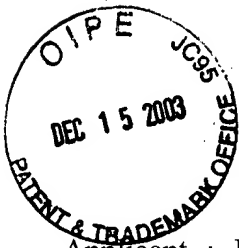
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

<b>Name (Print/Type)</b>	Linda M. White	<b>Date</b>	<i>December 10, 2003</i>
<b>Signature</b>	<i>Linda M. White</i>		

12/16/2003 YPOLITE1 00000066 09680007

01 FC:1801

770.00 OP



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Phillip M. Braun et al.  
Serial No. : 09/680,007  
Filed : October 5, 2000  
Title : ORAL DEVICES

Art Unit : 1744  
Examiner : Mark Spisich

RECEIVED  
DEC 18 2003  
TC 1700

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REPLY TO ADVISORY ACTION OF OCTOBER 28, 2003

In reply to the Advisory Action of October 28, 2003, Applicants submit the following remarks.

Applicants' amended claims feature a plurality of pairs of opposed cleaning elements mounted at an acute angle relative to an interproximal line, wherein the angle relative to the interproximal line is in a plane that is substantially parallel to the chewing surface of a row of the user's teeth.

In the Advisory Action, the Examiner asserts that the interproximal line of Hegemann lies in a plane that is substantially parallel to the chewing surface of a row of the user's teeth. This assertion does not address the structural features of the pending claims, which require that the angle (as opposed to the interproximal line) be in a plane substantially parallel to the chewing surface of a row of the user's teeth. The Examiner does not assert that Hegemann provides a teaching that the bristles form an acute angle as claimed, where the angle is in a plane substantially parallel to the chewing surface of a row of the user's teeth.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

December 10, 2003

Date of Deposit

Linda M. White

Signature

Linda M. White

Typed or Printed Name of Person Signing Certificate

Referring to the Figure on the front page of Hegemann and also Figure 3c, it is clear that angle  $\beta$  is not in a plane substantially parallel to the chewing surface of a row of the user's teeth. Angle  $\beta$  is defined in Fig. 3c between two dashed lines. One of the dashed lines is in a plane substantially parallel to the bristles 12 on brush head 11, which are in a plane substantially parallel to the chewing surface of a row of the user's teeth. The second of the dashed lines is not in a plane substantially parallel to the chewing surface of a row of user's teeth, but instead extends from bristles 17 on brush head 14. This line cuts diagonally through the user's teeth when the brush is in use. Accordingly, the angle defined by these lines, angle  $\beta$ , clearly does not lie in a plane substantially parallel to the chewing surface of the users teeth, but instead lies in a plane that cuts vertically through the length of the tooth from the roots to the chewing surface.

Like Hegemann, Trattner also fails to disclose bristles mounted at an acute angle relative to an interproximal line, where the angle is in a plane substantially parallel to the chewing surface of a user's teeth. Figure 4 illustrates the toothbrush disclosed in Trattner, which has bristles arranged "at an angle away from the surrounding gum tissue." (Trattner, col. 1, lines 32-39.) As with Hegemann, the angle disclosed in Trattner is in a plane that cuts through the length of the tooth from the roots to the chewing surface. Nowhere does Trattner teach or suggest cleaning elements mounted at an acute angle, where the angle is in a plane substantially parallel to the chewing surface of the user's teeth.

None of the cited references provide a teaching of pairs of opposed cleaning elements mounted at an acute angle relative to an interproximal line, wherein the angle relative to the interproximal line is in a plane that is substantially parallel to the chewing surface of a row of the user's teeth as recited in the pending claims. Accordingly, Applicants submit that the pending claims are novel and nonobvious.

Applicant : Phillip M. Braun et al.  
Serial No. : 09/680,007  
Filed : October 5, 2000  
Page : 3 of 3

Attorney's Docket No.: 00216-447001 / OB-166

Please apply any charges or credits to deposit account 06-1050, referencing attorney  
docket number 00216-447001.

Respectfully submitted,

Date: December 10, 2003

Catherine M. McCarty  
Catherine M. McCarty  
Reg. No. 54,301

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110-2804  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906

20768808.doc